

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

Inquiry Concerning Judge Diana R. Hall
No. 175

ORDER VACATING STAY,
REACTIVATING PROCEEDINGS,
AND DIRECTING BRIEFING AND
DE NOVO HEARING

Factual and Procedural Background

At the request of the commission, the Supreme Court, by Order dated September 20, 2005, appointed three special masters (original masters) to hear and take evidence and report to the commission in this matter. The three original masters presided over an evidentiary hearing that commenced on November 14, 2005 and concluded, for purposes of hearing and receiving evidence, approximately midday on November 16, 2005.

Later on November 16, 2005, an individual not otherwise involved in these proceedings, filed a sworn declaration in unrelated civil litigation pending in Monterey County Superior Court (Monterey Declaration). The Monterey Declaration contains allegations of serious unjudicial misconduct, including bias against Judge Hall, on the part of the presiding special master, and attributes unsubstantiated statements to him that suggest the three original masters had prejudged contested issues in the matter pending before them.

The commission convened on November 17, 2005, and that day issued its Order Staying Proceedings “until further order” of the commission. On November 23, 2005, the commission reconvened and issued its Order re Future Proceedings in the Inquiry Concerning Judge Diana R. Hall. That order of November 23 included the provision that “the November 17, 2005 stay of all proceedings before the ... special masters remains in full force and effect.” It also in effect

declared a mistrial and declared that the commission would request the Supreme Court to replace the original masters with new masters, to proceed de novo in this matter.

On December 15, 2005, the commission filed a petition in the California Supreme Court (Case No. S139619) requesting the Court to issue an Order relieving the original masters of their assignment as masters, and directing the appointment of new masters. After briefing, the Court issued an Order on January 4, 2006, granting the commission's petition, vacating its Order of September 20, 2005 appointing the three original masters, and stating that the Court "shall proceed with the process of selecting and appointing three new special masters"

For the foregoing reasons, and following a vote of the members of the commission, good cause appearing,

IT IS HEREBY ORDERED as follows:

1. The stay imposed under the commission's orders of November 17, 2005 and November 23, 2005 is hereby vacated;
2. Formal proceedings in this matter are hereby reactivated;
3. Following the selection and appointment of new special masters, they shall proceed de novo to hear and take evidence and report thereon to the commission;
4. The parties are to serve and file points and authorities with the commission's Legal Advisor on or before January 18, 2006, in letter or memorandum form and not exceeding 10 pages in length, concerning whether the commission should distribute to the parties copies of the transcript of either or both the prehearing conference of November 9, 2005, and the evidentiary hearing of November 14-16, 2005 before the original masters; each party may respond (no more than 5 pages) to the other party's points and authorities on or before January 23, 2006.

Dated: January 10, 2006

/s/
Marshall B. Grossman
Chairperson